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BRIGHT SOLUTIONS FOR DYSLEXIA, INC.
8 AND SUSAN BARTON

9
10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 SAN FRANCISCO DIVISION

13
14 Bright Solutions for Dyslexia, Inc., a
California corporation, and Susan Barton, an
individual,

15 Plaintiffs;

16 v.

17 Marcus Lee, an individual, Sherry Hurley,
an individual, Spencer W. Chuang, an
individual, Samuel Zhao, an individual, and
Does 5–25; and Roe entities 26–50,
inclusive,

18 Defendants.

19 Case No. 3:15-cv-01618-JSC

20 DECLARATION OF LUCY GOODNOUGH IN
SUPPORT OF PLAINTIFFS' MOTION FOR
ENTRY OF FINAL DEFAULT JUDGMENT
AGAINST DEFENDANTS MARCUS LEE,
SHERRY HURLEY, AND SAMUEL ZHAO

21 Date: October 5, 2017
Time: 9:00 a.m.
Crm: F, 15th Floor
Before the Hon. Jacqueline Scott Corley

22 Trial Date: None set

1 I, Lucy Goodnough, declare as follows:

2 1. My name is Lucy Goodnough. I am over the age of 18 years, and am an attorney
3 admitted to practice before this Court. I am an attorney with Computerlaw Group LLP, counsel
4 for Plaintiffs in this matter. I am a member in good standing with the State Bar of California. I
5 make the following statements of my own personal knowledge, and believe them to be true. I
6 could testify competently if called to do so.

7 2. After receiving reports of counterfeits auctioned over eBay by “kingmarco14,”
8 Plaintiffs began monitoring eBay, and saw more high-quality counterfeits offered by that user.
9 They requested takedowns through VeRO, and filed suit, obtaining leave to serve subpoenas on
10 eBay, Inc., Google, Inc. and PayPal, Inc. regarding the kingmarco14 eBay account. (ECF No.
11 17).

12 3. PayPal records for the kingmarco14 account verified at least 12 transactions on
13 “Barton Reading & Spelling System Level 1” between January and March 2015 alone. Exhibit 5
14 at rows 33, 35, 42, 49, 52, 54, 55, 76, 80, 94, 103, 106.

15 4. Records produced by eBay and PayPal identified the user’s name as “Marcus
16 Lee” with a Gmail address “marcuslee215@gmail.com.” eBay also had an address, 337 Colton
17 Street in Newport Beach, CA 92663, associated with the kingmarco14 account. **Exhibit 1** is a
18 true and correct copy of Account Registration Information produced by eBay on December 23,
19 2015, with the custodian of records’ declaration. Google’s records identified the
20 marcuslee215@gmail.com account as a valid account, and its subscriber information also
21 identified the name Marcus Lee associated with the address. **Exhibit 2** is a true and correct copy
22 of Google AccountInfo for marcusless215 produced on September 29, 2015.

23 5. PayPal and Google’s records each disclosed associated IP information. Plaintiffs’
24 investigators traced the IP address from Google, 72.211.215.249, to Irvine, CA, which confirmed
25 counsel’s research, using various geolocators, such as ipfingerprints.com that provided a
26 longitude and latitude -117.796997, 33.701099, and ipinfodb.com that yielded a longitude and
27
28

1 latitude -117.79394, 33.76446. Those coordinates in Google maps provided the addresses 14
 2 Riverstone Drive, Irvine, CA 92606 and 1151 Risa Place, Santa Ana, CA 92704, respectively.¹

3 6. Plaintiffs sent process servers to the Colton Street, Riverstone Drive, and Risa
 4 Place addresses, but were unable to locate Defendant Marcus Lee at any of those addresses.
 5 **Exhibit 3** is the true and correct copy of the Declaration of Diligence of Plaintiffs' process server
 6 in regards to service of Mr. Lee.

7 7. Plaintiffs also retained private investigators at IP Cybercrime to track down Mr.
 8 Lee. The investigators were unsuccessful in finding any record of a Marcus Lee associated with
 9 the Colton Street address, and reported that the IP address "72.211.215.249" that Google
 10 provided originated in the Irvine, CA area.

11 8. During the course of this action, Plaintiffs' monitoring and customer reports
 12 identified counterfeits of the same quality as kingmarco14's being auctioned by eBay user
 13 "westinghouse15." Records produced by eBay and PayPal gave Plaintiffs the name "Sherry
 14 Hurley" and the email addresses "sherryhurley877@gmail.com" and "shurley757@gmail.com"
 15 associated with the eBay account westinghouse15. **Exhibit 4** is a true and correct copy of records
 16 produced by eBay on June 1, 2016 in response to Plaintiffs' subpoena, Listing History, Account
 17 Information and Custodian's Declaration.

18 9. **Exhibit 5** is a true and copy of data printed out from an excel record produced by
 19 PayPal in connection with the Westinghouse15/Sherry Hurley account, produced on August 24,
 20 2016 in response to Plaintiffs' subpoena. In order to produce a readable printout, the Check Sent
 21 Address, Other IP, Receipt ID, Risk Filter and Button Source columns were omitted.

22 10. **Exhibit 6** is a true and correct copy of data printed out from an excel record
 23 produced by PayPal in connection with the Kingmarco14 account, produced on August 24, 2016

25 1 IP geolocation analysis of 116 IP addresses for account activity provided by PayPal resolved
 26 into four addresses coopted for anonymous use, 1–20 N. Central Ave. in Phoenix, AZ (possibly
 27 One Coffee Co. or the Arizona Summit Law School); 100 N. 3d Street (City Central Coffee or
 28 the Phoenix Convention Center N. Bldg.); 112 S. San Fernando Blvd in Burbank Californian (a
 building with "MUD Makeup Designery" logos), 1990 W San Carlos Street in San Jose, CA (a
 parking lot) and 2505 W 6th Street, Los Angeles, CA (Asbury Apartments).

1 in response to Plaintiffs' subpoena. In order to produce a readable printout, the Check Sent
 2 Address, Other IP, Receipt ID, Risk Filter and Button Source columns were omitted.

3 11. eBay's records showed 35 transactions by westinghouse15 involving Barton
 4 Reading and Spelling System Level 1 from August 2015 through May 2016 alone. Exhibit 4 at
 5 p.1; *see also* Exhibit 6 at rows 193–197, 199–200, 202–217, 324–226, 330–333, 603, 647–650, .
 6 and PayPal's records also showed money transfers between kingmarco14 and westinghouse15.
 7 Exhibit 6 at rows 558, 566, 567, 584, 592, 755, 763, 780, 788.

8 12. eBay and PayPal's records also identified the following physical addresses with
 9 the westinghouse15 account: 12192 Gilbert Street, Garden Grove, California 92841 and 22871
 10 Cedarspring, Lake Forest, California 92630. Plaintiffs were unable to serve Defendant Sherry
 11 Hurley at the three addresses associated with her. **Exhibit 7** is a true and correct copy of the
 12 Declaration of Diligence of Plaintiffs' process server in regards to service of Ms. Hurley.

13 13. Plaintiffs engaged private investigators to bid on a westinghouse15's offer to sell
 14 a Barton Level 1 product, and to communicate with the seller in an attempt to locate him/her.
 15 Purchasing the counterfeit for \$180.00 on July 26, 2016, the investigators requested to return one
 16 of the discs as defective and exchanged several messages with the seller over eBay's system,
 17 finally obtaining a replacement that shipped from "Amultech, 1452 Culver Drive, Ste #265A in
 18 Irvine, CA 92604." **Exhibit 8** is a true and correct copy of the Declaration of Jason Holmes.

19 14. Plaintiffs' investigation into that lead ended at UPS Store No. 32 at the Culver
 20 Drive address, a fictitious business name registered to Sea-Lite Investments, Inc. **Exhibit 9** is a
 21 true and correct copy of the California Statement of Information on Sea-Lite Investments, Inc. at
 22 the 14252 Culver Drive A, Irvine, CA.² **Exhibit 10** is a true and correct copy of the fictitious
 23 business name registration record reference for UPS Store No. 32 to "Sealite Investments" with
 24 the Orange County Clerk-Recorder's searchable online registry.

25 15. **Exhibit 11** is a true and correct copy of the fictitious business name record
 26 reference for Amultech (now abandoned) registered to 5202 Skinner Street, Irvine, CA from the
 27

28 ² The return address on the packaging of counterfeits shipped to Cameron Wilde and Grant
 Gillam gives this address at box No. 265.

1 database maintained by the Orange County Clerk Recorders' Office at
 2 cr.ocgov.com/FBNOnlineNet/. Plaintiffs sought to subpoena Sea-Lite, Mody, Amultech, and Mr.
 3 Chuang, but were successful only in serving Amultech/Mr. Chuang at the 5202 Skinner Street
 4 address. **Exhibits 12 and 13** are true and correct copies of the proofs of service as to Mr. Chuang
 5 and Amultech at that address.

6 16. **Exhibit 14** is a true and correct copy of Mr. Chuang's declaration.

7 17. Plaintiffs had also subpoenaed records from the financial institutions associated
 8 with both kingmarco14 and westinghouse15 accounts, disclosed in the subpoenaed records: Ally
 9 Bank, Bank of America, Inter National Bank, US Bank, and Visa. The only subpoena to yield
 10 any records was Bank of America's.³ **Exhibit 15** is a true and correct redacted copy of a page
 11 produced by Bank of America (along with the records custodian's declaration) as to an account
 12 in Mr. Chuang's name ending in 4267. *Compare* Ex. 5 at rows 12–177.

13 18. Mr. Chuang (through his attorneys) gave the additional statements attached as
 14 **Exhibit 16** a February 15, 2017 5:13 p.m. email to me from David Yu, Esq., who represented Mr.
 15 Chuang.

16 19. Plaintiffs used Lexis public records name searches to attempt to locate Samuel
 17 Zhao, Marcus Lee and Sherry Hurley but the results were unsuccessful in locating them. For
 18 example, there were 64 records for Marcus Lees in Los Angeles and none in Newport Beach.
 19 There were no Samuel Zhaos in California, and none associated with the Skinner address.
 20 Plaintiffs identified eight possible Sherry Hurleys in California, each with multiple addresses.
 21 Plaintiffs also performed social media searches using Lexis' tools and Spokeo, for social media
 22 accounts associated with the various email addresses for Marcus Lee and Sherry Hurley, but
 23 were unsuccessful in uncovering information leading to their locations.

24 20. On April 20, 2017, I sent test messages to "marcuslee215@gmail.com,"
 25 "shurley757@gmail.com," "sherryhurley877@gmail.com," and "szhao185@gmail.com." No

26
 27
 28 ³ U.S. Bank located no records, Inter National Bank and Visa had no records, and Ally Bank had
 no contact information for either Lee or Hurley, and deemed the accounts fraudulent.

1 errors were received from marcuslee215 and shurley757 addresses, but those to the szhao185 and
 2 sherryhurley877 addresses returned “undeliverable” messages.

3 21. On May 11, 2017, this Court entered its Order Granting Plaintiffs’ Motion for
 4 Service by Email (at the marcuslee215 and shurley757 addresses) and Publication (ECF No. 50).
 5 Consistent with the May 11 Order’s requirements,⁴ on May 26, 2017, Plaintiffs served the
 6 respective summons⁵ and Third Amended Complaint, along with other required documents⁶ on
 7 each Defendant, as evidenced by the three Certificates of Service filed on May 26, 2017 as ECF
 8 Nos. 56 (Lee), 57 (Hurley), and 58 (Zhao).

9 22. More than 21 days have elapsed since the date on which service of the Summons
 10 and Third Amended Complaint by email was effective. Mr. Lee, Ms. Hurley, and Mr. Zhao have
 11 each failed to answer or otherwise respond to the Third Amended Complaint, or serve a copy of
 12 the answer or other responses upon Plaintiffs’ attorneys of record. None of Mr. Lee, Ms. Hurley,
 13 and Mr. Zhao was granted any extension of time to respond to the Third Amended Complaint.

14 23. I do not have any information that any of Mr. Lee, Ms. Hurley, or Mr. Zhao are
 15 minors or incompetent persons.

16 24. I do not have any information that any of Mr. Lee, Ms. Hurley, or Mr. Zhao are in
 17 the military service.

19 ⁴“Plaintiffs’ motion for service by email and publication is GRANTED. Plaintiffs must first attempt
 20 service by email. Plaintiffs are granted leave to serve Defendants Marcus Lee and Samuel Zhao at
 21 address “marcuslee215@gmail.com” and Defendant Sherry Hurley at “sh[u]rley757@gmail.com.”
 22 Plaintiffs have four weeks from the date of this order to attempt service by email.” ECF No. 50 at
 23 6:1–5.

24 ⁵ ECF Nos. 23 (Endorsed Summons to Lee); 34 (Endorsed Summons to Hurley); and 54
 25 (Endorsed Summons to Zhao).

26 ⁶ Namely, Complaint (ECF Nos. 1–1–6), First Amended Complaint (ECF Nos. 22–22–1), Second
 27 Amended Complaint (ECF Nos. 32 – 32–8), Standing Order for All Judges of the Northern
 28 District of California, Magistrate Judge Corley’s Civil Standing Order, Magistrate Judge
 Corley’s Case Management Conference Order, Magistrate Judge Corley’s Settlement Conference
 Standing Order, Plaintiffs’ Certification and Notice of Interested Parties (ECF No. 3), Case
 Assigned to Magistrate Judge Corley (ECF No. 5), Order Setting Initial Case Management
 Conference and ADR Deadlines (ECF No. 7), Consenting to a Magistrate Judge’s Jurisdiction In
 The Northern District of California, Plaintiffs’ Consent to Magistrate Judge Jurisdiction (ECF
 No. 10), Plaintiffs’ Case Management Statements (ECF Nos. 12, 18, 20, 26, 28, 35, 43, and 45),
 and Order Granting Plaintiffs’ Motion for Service by Email and Publication (ECF No. 50).

1 25. Accordingly, consistent with Magistrate Judge Corley's instructions at the Case
2 Management Conference on August 10, 2017 (ECF No. 60), Plaintiffs moved for entry of default
3 by the Clerk as to Mr. Lee, Ms. Hurley, and Mr. Zhao on August 17, 2017 (ECF No. 61). The
4 Clerk entered default as to each of them the next day (ECF No. 62).

5 26. Upon filing, Plaintiffs will serve each Defendant with notice of this Motion and
6 supporting papers to the email addresses previously authorized for service.

7 I declare under penalty of perjury under the laws of the United States and the State of
8 California that the foregoing is true and correct, and that this Declaration was entered into on
9 August 31, 2017 in Palo Alto, California.

10 _____
11 Lucy Goodnough